

IN THE SENATE

SENATE BILL NO. 1056, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE STATE BOARD OF CORRECTIONS; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-209G, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THE DIRECTOR OF CORRECTION WITH CERTAIN AUTHORITY AND TO PROVIDE PROCEDURES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-209G, Idaho Code, and to read as follows:

20-209G. AUTHORITY TO INVESTIGATE AND ISSUE SUBPOENAS. (1) For purposes of this section, the following definitions shall apply:

(a) "Correctional facility" means any prison, correctional facility or mental health facility operated by the department of correction and any public or private correctional facility in which department of correction prisoners are housed pursuant to contract, including a county jail;

(b) "Department of correction prisoner" means any person housed in a correctional facility who has been committed to the custody of or who is under the supervision of the department of correction by way of a judgment of conviction or court order, including the following:

- (i) Prisoners committed to the department to serve criminal sentences;
- (ii) Persons committed in relation to their fitness to proceed at trial pursuant to section 18-212, Idaho Code;
- (iii) Prisoners over whom a court has retained jurisdiction pursuant to section 19-2601 4., Idaho Code;
- (iv) Prisoners serving discretionary jail time as probationers or parolees;
- (v) Parolees arrested pursuant to sections 20-227 and 20-228, Idaho Code, and are awaiting a determination regarding violation or revocation of their parole;
- (vi) Civil commitments pursuant to section 66-329, Idaho Code; and
- (vii) Persons committed to the Idaho security medical program pursuant to section 66-1301, Idaho Code.

(c) "Documents" means any writings, charts, records, recordings, electronic records or data, photographs, tangible things, drawings or diagrams of any sort whatsoever.

(2) In furtherance of the duties set forth in this chapter and department of correction rules, the director of correction shall have the authority to:

- (a) Investigate crimes, criminal enterprises or conspiracies, violations of state law or administrative regulations, disturbances, riots and the introduction of contraband into a correctional facility, where such activities involve department of correction prisoners;

1 (b) Investigate waste, mismanagement of state resources and violations of laws,  
2 regulations, policies, directives or procedures by employees of the department of  
3 correction; and

4 (c) Issue subpoenas for the production of documents which may be relevant to such  
5 investigations.

6 (3) If a custodian of documents refuses to produce any document required by a subpoena  
7 issued pursuant to subsection (2) of this section, the director of correction may petition the  
8 district court in the county in which the custodian resides or does business, setting forth by  
9 way of sworn affidavit the reasons supporting issuance of the subpoena and why the documents  
10 sought are necessary for the investigation, that due notice has been given of the time and place  
11 of production of said documents, that the custodian has been properly summoned and that  
12 the custodian has failed and refused to produce documents required by the subpoena and may  
13 request an order compelling the custodian to produce the documents.

14 (4) Upon the filing of such petition and affidavit, the court shall enter an order directing  
15 the custodian of documents to appear before the court at a time fixed by the court, but not more  
16 than ten (10) court days from the date of the order, and to show cause why the custodian has  
17 not produced the documents and why he should not be required to produce the documents. The  
18 court shall serve a copy of the order upon the custodian. If it appears to the court that the  
19 petition is adequately supported by affidavit, the subpoena was regularly issued by the director  
20 of correction and regularly served upon the custodian, and that there is not good cause for the  
21 custodian's failure to produce the documents, the court shall order the custodian to produce the  
22 required documents at a time and place fixed by the court. If the custodian fails to obey the  
23 court's order, he shall be dealt with for contempt of court.

24 (5) When documents are sought from a custodian who is not a resident of this state or  
25 who has his principal place of business in another state, the director of correction is authorized  
26 to obtain subpoenas issued by the clerk of the district court of Ada county. The clerk of the  
27 district court shall open a court file, provide a case number and issue the subpoena under the  
28 seal of the court. The subpoena shall specify those documents required to be produced.

29 (6) The department of correction shall cooperate with local law enforcement and other  
30 local, state or federal law enforcement agencies during the conduct of any investigation arising  
31 out of the powers and duties set forth in this section.